

G-008/CI-88-460MODIFYING AND APPROVING COST RECOVERY PROPOSAL AND  
REQUIRING FILING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
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In the Matter of the Accounting for and  
Recovery of Conservation Expenses by  
Minnegasco, Inc.

ISSUE DATE: September 1, 1989

DOCKET NO. G-008/CI-88-460

ORDER MODIFYING AND APPROVING  
COST RECOVERY PROPOSAL AND  
REQUIRING FILING

PROCEDURAL HISTORY

On September 11, 1986, the Minnesota Public Utilities Commission (the Commission) approved Minnegasco, Inc.'s (Minnegasco or the Company) Conservation Improvement Program filing with some modifications and ordered the Company to expense CIP costs until the Company filed a formal cost recovery proposal. In the Matter of the Implementation of an Energy Conservation Improvement Program for Minnegasco, Inc., Docket No. G-008/M-86-243.

On October 5, 1987, the Commission ordered Minnegasco to file a CIP cost recovery proposal. In the Matter of the Implementation of an Energy Conservation Improvement Program, Docket No. G-008/M-87-231.

Minnegasco did so on January 5, 1988.

On August 4, 1988, the Commission staff sent information requests to the Company relating to expenditures and cost recovery for three conservation programs mandated by federal or state law: the Pilot Utility Conservation Investment Program (PUCIP); the Residential Conservation Service (RCS); and the Conservation Improvement Program (CIP). The Company responded to those requests on September 7, 1988 and sent copies of its response to the Department of Public Service (Department or DPS) and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG). Comments and responsive comments followed.

The Commission met on March 14, 1989 to consider this matter.

On April 13, 1989, the Commission issued its Order Soliciting Comments, stating that it needed more information to decide whether to approve, disapprove or modify the Company's CIP cost

recovery proposal. Interested parties were invited to comment on:

1. how CIP, PUCIP, and RCS expenditures relate to each other;
2. whether the Company's PUCIP tracking system, or some variation of it, should be approved for CIP expenses; and
3. methods of avoiding future buildups of the tracker balance if a cost recovery tracking system is approved.

Comments were filed by Minnegasco and the DPS on May 30, 1989, and by the RUD-OAG on May 31, 1989.

The Commission met on July 19 and August 9, 1989 to consider this matter.

### COST RECOVERY

Cost recovery is a major issue in conservation programs. The Commission encourages conservation investments. However, under cost of service ratemaking, utilities are unable to recover increased conservation expenditures between rate cases when those expenditures are treated as normal test year expenses. To resolve the tension between investment and recovery, the Commission has allowed utilities to track conservation investments.

A tracker account handles conservation expenses differently from other test year expenses. For the most part, companies with conservation tracker accounts are allowed dollar-for-dollar recovery of reasonable expenses incurred in approved conservation programs. The Commission annually reviews utilities' conservation programs and reviews the reasonableness and prudence of a utility's conservation expenses in general rate cases. Conservation expenses included in the test year income statement determine the conservation cost recovery charge (CCRC), which is the amount of conservation expenses a company is allowed to collect in its rates. Each year, revenues collected through the CCRC and from charges to customers for conservation services such as audits are offset against actual expenditures. The amount which is over- or undercollected becomes the deferred balance to be carried forward to the following year. When the company files its next general rate case, all conservation expenditures occurring since the last zeroing out of the tracker account are examined. The debit or credit balance is adjusted for those amounts which the Commission determines have been inappropriately included in the tracker. The company eliminates the over- or under-recovery either by collecting the deficit through rates or refunding any overcollections to ratepayers.

## BACKGROUND

In 1980, the legislature directed the Commission to begin a pilot conservation improvement program in which at least one utility would be ordered to make conservation investments. Minn. Laws 1980, ch. 579, § 18. The Commission initiated PUCIP and selected Minnegasco as one of the pilot utilities. The Company received Commission approval for two projects: Neighborhood Energy Workshops (NEW) and the Energy Bank (E/B). The Commission approved a tracker account in 1980 for Minnegasco to recover its PUCIP expenditures.

In 1982, the legislature amended the PUCIP statute so that it would no longer be a pilot program, but rather would be applicable to all gas and electric utilities. Minn. Laws 1982, ch. 561, § 4. In 1983, the Legislature made the program mandatory for all utilities of a certain size. Minn. Laws 1983, ch. 179, § 7. The Commission changed the name of the program from PUCIP to CIP, to indicate it was no longer a pilot program, and, in November 1983, ordered all affected utilities to file proposed CIP plans.

Minnegasco filed a CIP proposal on January 23, 1984. The Company proposed to continue the Neighborhood Energy Workshop and Energy Bank projects. The Company proposed to continue the tracker system for expenses and revenues that had been approved by the Commission.

Minnegasco had general rate cases in 1980 (Docket No. G-008/GR-80-630) and 1982 (Docket No. G-008/GR-82-249). In the 1980 case, the Commission rejected Minnegasco's proposal to track RCS expenditures and ordered the Company to expense these costs. This cost recovery method was continued in the 1982 rate case. In these rate cases, the Commission determined a test-year level of RCS expenses and recognized it in calculating final rates.

In Minnegasco's 1982 rate case, the Commission approved the continuation of the PUCIP tracking process that had been followed since the program began. PUCIP ended in 1984; CIP followed PUCIP. However, in its September 11, 1986 Order in In the Matter of the Implementation of an Energy Conservation Improvement Program, Docket No. G-008/M-86-243, the Commission found that the Company had not provided the Commission with a formal proposal for a CIP cost recovery method and ordered that the CIP costs be expensed in the year they occurred until the Company filed a CIP cost recovery proposal. Again, in Docket No. G-008/M-87-231, the Commission noted that Minnegasco had not yet filed its CIP cost recovery proposal and directed the Company to do so within 90 days of the October 5, 1987 Order. As noted above, the Minnegasco filing was received on January 5, 1988.

In its January 5, 1988 filing, the Company claimed that it would have a cumulative under-recovery of expenditures in the PUCIP and CIP programs of more than \$1 million as of the end of June, 1988. The Company's responses to the Commission staff's information requests indicate that Minnegasco over-recovered RCS expenditures through rates by approximately \$7.8 million through June, 1988.

### CONSERVATION COST TRACKER PROPOSAL

The Company's conservation cost tracker proposal views CIP as a continuation and expansion of PUCIP and considers that the cost recovery tracking system approved for PUCIP continues to apply to the CIP program. The Company believes that any under-recovery of PUCIP/CIP expenses should be recoverable in a future rate case. The Company also maintains that any over-recovery of RCS expenditures should be ignored since RCS costs have been expensed as ordered by the Commission and may have been offset by other expense increases.

### FINDINGS AND CONCLUSIONS

The Commission must decide whether to authorize a conservation cost tracker system for Minnegasco's CIP revenues and expenses and, if so, the Commission must determine the time period for the tracker system to apply.

The Commission has broad authority over the accounting systems that public utilities may use in conducting business. Minn. Stat. §§ 216B.10 and 216B.11 (1988). Minn. Stat. § 216B.10, subd. 3 (1988) provides: "Every public utility is required to keep and render its books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission, and to comply with all directions of the commission relating to these books, accounts, papers and records."

The Commission notes that the Company received specific authority to use a tracker account for its PUCIP expenses, but has never had explicit Commission authority to track CIP expenses.

The DPS recommended that the Commission approve the Company's cost recovery proposal. The DPS stated that this account would essentially be a continuation of the tracker account the Commission approved in 1980 for the Company's expenditures under PUCIP. According to the Department, the CIP tracker account should be approved from November 1, 1984 onward. The DPS views the historical recovery of Minnegasco's RCS and CIP expenses as two different issues. However, prospectively, the Department asked that the Commission order the Company to incorporate RCS revenues and expenditures into the CIP tracker account. The Company agreed to this on the condition that the Commission approve use of the PUCIP tracking system for CIP expenditures.

The RUD-OAG agreed that a tracking system for CIP expenditures should be approved prospectively and that the RCS rate recovery amount should be rolled into the tracking system on prospective basis. However, the RUD-OAG argued that granting a retroactive tracker would undercut the Commission insistence on submission of a formal cost recovery proposal as a condition for use of a tracking system for recovery. The RUD-OAG also argued that recovery of past CIP

costs from future ratepayers would be inequitable, considering that the tracking account balance was caused in large part by arbitrary allocation of the Minneapolis Energy Office costs into separate RCS and PUCIP/CIP components.

The Commission will examine four time periods from the start of CIP to the present during which different events influence the decisions of whether to authorize tracking CIP expenses in excess of the amount built into rates.

#### November 1, 1984 - September 10, 1986

The first time period is from November 1, 1984 to September 10, 1986. In January, 1984, Minnegasco filed its first CIP proposal. It proposed to continue the NEW and E/B projects from PUCIP. Minnegasco stated:

As PUCIP programs, NEW and E/B expenses currently are being "tracked" for ratemaking purposes. That is, the actual expenses incurred and the amounts collected from firm customers for the programs as a part of rates are being accounted for and any over or under recovery is reflected as a cost of service adjustment in the next general rate filing. It is proposed that this process be continued.

Part V.

The Commission approved Minnegasco's filing in a Order dated November, 1, 1984, but did not specifically address the cost recovery proposal. In the Matter of the Implementation of Utility Energy Conservation Improvement Programs and the Establishment of a Utility Renewable Resources Pilot Program, Docket No. G,E-999/CI-83-565. The Commission finds that the Company was reasonable when it interpreted the Commission's silence to mean approval of the continuation of the PUCIP tracker for CIP. Minnegasco's interpretation is reasonable because the projects did not change and neither did the accounting treatment for the projects.

In 1985, there were no CIP filings due to a pending appeal of the CIP procedures. See, Hanna Mining Co. v. Minnesota Pub. Utils. Comm'n, 375 N.W.2d 550 (Minn. Ct. App. 1985). However, Minnegasco requested and received Commission approval to continue funding its approved CIP projects. In the Matter of Minnegasco, Inc.'s, Request for Extension of Conservation Improvement Programs, Docket No. G-999/CI-83-565, Order Approving Extension of Programs (March 28, 1986). This Order also did not specifically address CIP cost recovery. The Commission reiterates its finding that the Company was acting reasonably in interpreting the Commission's silence on this issue to mean acceptance of the existing tracker. The Commission concludes that Minnegasco should be allowed to track CIP expenses in excess of the amount already received in rates for the period November 1, 1984 - September 10, 1986.

#### September 11, 1986 - June 30, 1987

On May 1, 1986, Minnegasco filed its proposed CIP pursuant to Minn. Rules, part 7840.0500. In an Order issued September 11, 1986, the Commission approved Minnegasco's proposal with some modifications but stated:

Minnegasco has not provided the Commission with a formal proposal for a CIP cost

recovery method. A formal proposal for cost recovery should at a minimum include information such as a detailed listing of CIP related accounts. Until the time that Minnegasco files such a proposal, CIP costs shall be expensed in the year they occur. If Minnegasco decides to file a formal proposal for cost recovery, the following information should also be included in the filing: (1) the level of recovery of conservation costs in current rates and (2) the annual expenditure level for conservation projects for the past five years. (Emphasis supplied.)

In the Matter of the Implementation of an Energy Conservation Improvement Program for Minnegasco, Inc., Docket No. G-008/M-86-243.

The Commission finds that the language quoted above is clear and unambiguous. Minnegasco was expected to expense CIP costs until it submitted a formal cost recovery proposal. It did not do so. It did not ask the Commission to clarify or amend the above language. Minnegasco simply failed to comply with the Commission's Order. The Company did not file the ordered cost recovery proposal until January, 1988. The Commission does not believe that it was reasonable for the Company to ignore a Commission Order and to continue tracking CIP expenses from the date of that Order. The Commission will not allow the Company to do so. Under normal circumstances the Commission would require the Company to expense its CIP costs until its formal cost recovery proposal is approved. However, here, the Commission believes that following the Tax Reform Act of 1986 and the Commission's and the Company's responses to that law, the reasonableness of a expensing CIP costs must be reevaluated.

#### July 1, 1987 - January 4, 1988

Minnegasco's rates were thoroughly reviewed and adjusted in 1987 to account for changes in tax law. On June 29, 1987, the Commission's rules relating to rate adjustments due to the Tax Reform Act of 1986 (TRA), Minn. Rules, parts 7827.0100 to 7827.0600, became effective. They state that on and after July 1, 1987, overall rates of public utilities and telephone companies are unjust and unreasonable unless their rates have been adjusted to account for the reduction in federal income tax expense as a result of the TRA or certain alternative conditions are fulfilled. One of the alternatives was that rates be established under a stipulated settlement approved by the Commission.

Minnegasco submitted a stipulated settlement entered into by the Company, the DPS and the RUD-OAG on July 31, 1987.

The Commission approved the stipulation on September 23, 1987. In the Matter of the Stipulated Settlement Regarding the Rates of Minnegasco, Inc., Pursuant to Minn. Rules, parts 7827.0100 to 7827.0600, Relating to Rate Adjustments Due to the Tax Reform Act of 1986, Docket No. G-008/M-87-434. Under the terms of the stipulation, the Company agreed to reduce its overall rates on and after July 1, 1987 by the annual amount of \$2,109,000. This reduction in rates was determined by adjusting for several factors: Minnegasco's 1986 normalized financial data for the effects of the TRA, the 1987 Minnesota tax law changes pursuant to Minn. Laws 1987, ch. 268, and the projected operational changes for Minnegasco from July 1, 1987 through June 30, 1988. The Commission determined that the stipulation was in the public interest and ensured that Minnegasco's natural gas rates were just and reasonable in light of the Tax Reform Act of 1986. The Company issued a credit to customers for amounts overcollected since July 1, 1987.

The Commission finds that because the Stipulation included adjustments for projected operational changes for a test period from July 1, 1987 through June 30, 1988, the expected revenues and expenses related to CIP projects during that period were considered. The rate recovery amount authorized for PUCIP in the Company's last rate case was continued. Because of this review of expenses and revenues, the Commission finds it reasonable to permit Minnegasco to track CIP expenses beginning with the effective date of the rates authorized in the TRA Stipulation. The Commission will allow the Company to track CIP expenses during this period.

#### January 5, 1988 and Thereafter

Following the rate review and adjustments discussed above, the Company filed a formal CIP cost recovery proposal on January 5, 1988. The Commission has approved tracker accounts for other CIP utilities because tracker accounts eliminate a disincentive to conservation spending and further statutory goals. The Commission finds that the Company's proposal conforms to Commission standards and will approve it prospectively from the date of the filing. The Commission will establish January 1, 1988 as the starting date to avoid minor accounting problems related to partial months.

#### RCS Expenditures

As discussed above, Minnegasco has recovered several million dollars more in rates for the RCS program than it has spent. In addition, the Company will continue to collect approximately



\$316,000 per year in rates for RCS although the program ended June 30, 1989. Because these costs were expensed in Minnegasco's last rate case and in the 1986 TRA settlement, the Company is not currently required to refund any of this over-recovery to ratepayers. Meanwhile, the Company is accruing a substantial deficit in its CIP tracker account, for which ratepayer will have to pay in the next rate case. The Commission finds that this places an unfair burden on ratepayers.

The Commission also finds that RCS expenditures and revenues should be tracked in conjunction with CIP on a prospective basis. Because there will be no spending on RCS in the future, this arrangement will provide approximately \$316,000 per year in additional revenues for the CIP tracker account, an amount that will substantially reduce any future deficits.

The Commission notes that Minnegasco's RCS account presents an issue similar to that presented in In re Deregulation of the Installation and Maintenance of Inside Wiring, 420 N.W.2d 650 (Minn. Ct. App. 1988). In that case federal law mandated the deregulation of inside wiring. Because telephone companies had revenues or installation and maintenance of inside wiring built into their rates, the Commission ordered a reduction in rates to remove this charge. The Court of Appeals upheld this decision. Id.

Here, too, a change in federal law, the ending of a program, allowed utilities to quit paying for a service that was built into rates. Both of these cases involved single expense items.

Finally, the Commission treats conservation expenses differently from other expenses to further conservation, benefit utilities, and ultimately all consumers. The Commission allowed the Company to establish a PUCIP tracker account between rates cases when that program was instituted. Because the Company was willing to accept the benefits of a conservation tracker account between rate cases in 1980, it must accept the responsibility of one now. Any other result would create a special privilege to utilities at the expense of ratepayers. The Commission concludes that RCS

revenues and expenditures should be incorporated into the CIP tracker account on a prospective basis and will so order.

### Tracker Balance

The decisions made here allow Minnegasco to accumulate for later recovery in a general rate case its PUCIP and CIP expenses in excess of amounts already collected through rates, except during the period between the Commission's 1986 CIP approval and the effective date of the TRA rates. The Commission will use the nine-month period between October 1, 1986 and June 30, 1987 for administrative simplicity.

The Commission will order the Company to provide a written report of the tracker balances as of January 1, 1988 and the date of this Order, including the monthly expense and recovery amounts from which the balances are determined.

### ORDER

1. The Commission hereby authorizes the use of a tracking mechanism for Minnegasco's Conservation Improvement Program (CIP) for the purpose of accumulating differences between legitimate CIP expenditures and cost recovery at the rate of \$.0083 per Mcf of sales, authorized in Docket No. G-008/GR-82-249, effective January 1, 1988.
2. The Company shall roll into the tracking system, as of the date of this Order, \$.0028 per Mcf of sales established in the TRA Stipulation and built into rates to cover costs of the Residential Conservation Service.
3. The Company is hereby authorized to include as a starting balance for the tracking system any PUCIP/CIP expenses in excess of recovery for the entire period prior to January 1, 1988, except for the nine-month period from October 1986 through June 1987.
4. Within 30 days, the Company shall file with the Commission and the Department of Public Service a written report of the tracker balances as of January 1, 1988 and as of the date of this Order, including the monthly expense and recovery amounts from which the balances are determined.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)